

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

SUN-P-1

First named inventor: Hoskote B. Sundaresh

Application No.: 09/924,075

Art Unit: 3761

Filed: August 8, 2001

Examiner: Paul Shanoski

Title: First Aid Strips: first Aid Hats First Aid Caps

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____ (identify type of reply):

☒ has been filed previously on _____.

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/William Monty Simmons /

Signature

October 24, 2007

Date

William Monty Simmons

Typed or printed name

53,910

Registration Number, if applicable

P.O. Box 1560

Address

828 757 9689

Telephone Number

Lenoir, N.C. 28645

Address

Enclosures: ☐ Fee Payment☐ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☒ Other: Fee paid electronically**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

October 24, 2007

Date

/William Monty Simmons/

Signature

William Monty Simmons

Typed or printed name of person signing certificate

PATENT

ATTORNEY DOCKET NO.: SUN-P-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Hoskote B. Sundaresh)	
)	Examiner: Paul Shanoski
Serial No.: 09/924,075)	
)	Art Unit: 3761
Filed: August 8, 2001)	
)	Confirmation No.: 1591
Title: FIRST AID STRIPS: FIRST AID HATS)	
FIRST AID CAPS)	Deposit Acct. No.: 503176
)	

Current Location of file: Office Of Petitions

Commissioner of Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir/Madam:

RESPONSE

In response to the Decision on Petition, Under 37 CFR §1.137(a), mailed July 24, 2007, dismissing such petition, the Applicant submits a petition under 37 CFR §1.137(b).

I hereby certify that this correspondence is being submitted by facsimile via the following fax number (571) 273-8300. Additionally, this correspondence is being submitted electronically via PAIR.

Date: October 24, 2007

Name: / William Monty Simmons /
William Monty Simmons

I. Statements of Fact

Applicant wishes to respectfully note that there appears to be some discrepancies in the chain of events listed in the “BACKGROUND” section of the July 24, 2007 Decision on Petition (hereafter simply DOP) compared to what is found in the File Wrapper History for the 09/924,075 application (hereafter simply “File Wrapper”) on the USPTO website.

Applicant agrees that on August 29, 2003, an USPTO non-final Office Action was mailed and received by Applicant giving a statutory period for reply of three months (or November 29, 2003). Applicant also agrees that Applicant requested a two-month extension on December 1, 2003 giving Applicant until January 29, 2004 to file a reply. While a reply was not submitted with the request for a two-month extension, Applicant respectfully submits a response was submitted on January 20, 2004 (nine days before the January 29, 2004 due date). Indeed, as evidenced by documents contained in the USPTO file wrapper for the 09/924,075 application (hereafter simply File Wrapper), a reply (*pro se*) was stamped received by the “OIPE” on January 20, 2004 and stamped received by the “Technology Center” on January 28, 2004.

Below is an image of a “Transmittal Form” found in the File Wrapper containing the OIPE stamp and the Technology Center stamp.

the above described Applicant's response would likely be a responsive reply addressing all issues presented in the August 29, 2003 Office Action, particularly for a *pro se* applicant. At the very least it was a good faith attempt to replay to the August 29, 2003 Office Action.

The Applicant did receive the notice of abandonment for failure to respond to office action in March 2004. The Applicant was understandably confused as to why his response was not accepted by the USPTO as he had received a return post card indicating the USPTO had indeed received his response. Consequently the Applicant called the USPTO and inquired as to why his response was not accepted and his application considered abandoned.

The USPTO representative emphatically told the Applicant that if he did not have evidence that the USPTO had received all the documents claimed to have been mailed, the application was considered abandoned. Unfortunately it does not appear the return post card listed the items included in the response, thus, the return post card (which the Applicant still has) was of little help.

The Transaction History next notes that a "Petition Entered" on March 19, 2004. According to the DOP (Decision on Petition), on March 19, 2004 a petition to withdraw the holding of abandonment pursuant to Rule §1.181 was filed on March 19, 2004.¹ Such petition is not found in the File Wrapper. Further, on June 17, 2004, the Transaction History notes that a "Petition to Revive Application – **Granted**" (while the DOP says it was dismissed) notice was mailed to applicant.² Unfortunately, the Applicant did not ever received the June 17, 2004 notice (granted or dismissed). As a result, the *pro se* Applicant simply thought his application was abandoned and did not know the USPTO was awaiting a reply.

¹ *See* Decision on Petition, Page 2, second paragraph (July 24, 2007).

² Please note that the Decision on Petition states the Petition to revive was **dismissed** via a mailing of a decision on June 16, 2004.

II. Points to Be Reviewed and Action Requested

The points to be reviewed related to the Applicant's delay in responding to an outstanding office. The action requested is withdrawal of the holding of abandonment.

III. Petition to Revive Under 37 CFR §1.137(b)

Applicant respectfully requests the Examiner to consider the Applicant's position that the 09/924,075 application was unintentionally abandoned under 37 CFR §1.137(b).

The Applicant appreciates that under 37 CFR §1.137(b), a grantable petition pursuant to this paragraph must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

Item (4) is not applicable to the Applicant's petition and the Examiner has already noted that Item (1) has been satisfied and this petition is intended to satisfy Item (2). Consequently, only Item (3) is in question.

Applicant respectfully submits that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR § 1.137(b) was unintentional. The *pro se* Applicant did not know he could or should have submitted the required reply. It should be appreciated that at every point during the

prosecution of this application where the Applicant knew he was required to submit a reply he did, save the last the last Office Action when he never received or knew about.

The transaction history of the 09/924,075 application is provided in the Table below.

Date	Activity	Comments
2001-05-14	Applicant Files a design Application Application Number: 29 / 141,813	<ul style="list-style-type: none"> • Application filed <i>pro se</i>; • Applicant file for Design by mistake; • Access to this file has not been granted Applicant's attorney of record as of the filing of this response;
2001-08-08	Applicant Files a Continuation	<ul style="list-style-type: none"> • Continuation status not noted in the application but is noted in application cover letter; • Continuation status is noted in "Utility Patent Application Transmittal" form;
2002-02-19	Change of Correspondence Address	<ul style="list-style-type: none"> • Stamped Received by USPTO
2003-08-26	Non-Final Rejection	<ul style="list-style-type: none"> • USPTO documents
2003-12-01	Applicant files Request for Extension of time to respond;	<ul style="list-style-type: none"> • Not in file wrapper; • Documented in Transaction History
2004-01-20	Applicant submits a replacement specification	<ul style="list-style-type: none"> • In response to the Non-Final Office action rejection; • Office Action not in file wrapper; • Access to Office Action has not been granted;
2004-03-08	USPTO issue notice of Abandonment for failure to respond to Office Action;	<ul style="list-style-type: none"> • Applicant's response, with extension, does appear to be timely filed assuming Applicant's response address all issue in the Office Action;
2004-03-19	Petition to Revive Entered	<ul style="list-style-type: none"> • Petition not in Electronic File Wrapper • Applicant has no memory of submitting or filing this petition; • The 08/24/2007 Decision on Petition indicates that this petition was a 37 CFR §1.181 petition;
2004-06-17	Petition to Revive Granted	<ul style="list-style-type: none"> • Petition was Granted according to Transaction History; • Petition was Dismissed according to the 08/24/2007 Decision on Petition;
2007-06-04	Petition to Revived Entered	<ul style="list-style-type: none"> • <i>Pro Se</i> Petition
2007-06-22	Filed Marked Lost	<ul style="list-style-type: none"> •

2007-06-28	File Marked Found	•
2007-07-23	Petition to Revive – Dismissed	•
2007-09-24	Petition Entered	• Extension of time

This correspondence is being faxed and submitted electronically via Private PAIR and the required fees will be paid electronically at that time. However, please charge any additional fees required by this request to Deposit Account No. 503176.

Respectfully submitted,

October 24, 2007

Date

William Monty Simmons

William Monty Simmons

Reg. No.: 53,910

Simmons Patents

P.O. Box 1560

Lenoir, NC 28645

(828) 757-9689